

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAYMOND CAMPOS,
Petitioner,

v.

MARTIN BITER,
Respondent.

Case No. [15-cv-04630-PJH](#)

**ORDER FOR RESPONDENT TO
SHOW CAUSE**

Petitioner, a California prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner was convicted in Monterey County which is in this district, so venue is proper here. See 28 U.S.C. § 2241(d). He has paid the filing fee.

BACKGROUND

A jury convicted petitioner of inflicting great bodily injury during the deliberate attempted murder of a sheriff's deputy. He was sentenced to 34 years in state prison. His conviction was affirmed on appeal. *People v. Campos*, 2012 WL 3996829 (Cal. App. 6 Dist. Sep. 11, 2012).

DISCUSSION

I. STANDARD OF REVIEW

This court may entertain a petition for writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An

1 application for a federal writ of habeas corpus filed by a prisoner who is in state custody
2 pursuant to a judgment of a state court must "specify all the grounds for relief available to
3 the petitioner ... [and] state the facts supporting each ground." Rule 2(c) of the Rules
4 Governing § 2254 Cases, 28 U.S.C. § 2254. "[N]otice' pleading is not sufficient, for the
5 petition is expected to state facts that point to a 'real possibility of constitutional error.'" Rule 4
6 Advisory Committee Notes (quoting *Aubut v. Maine*, 431 F.2d 688, 689 (1st Cir. 1970)).
7

8 **II. LEGAL CLAIMS**

9 Petitioner's sole ground for federal habeas relief asserts that his trial counsel was
10 ineffective in the plea bargaining stage pursuant to *Lafler v. Cooper*, 132 S.Ct. 1376
11 (2012). This claim is sufficient to require a response.

12 **CONCLUSION**

13 1. The clerk shall serve by regular mail a copy of this order and the petition
14 and all attachments thereto on respondent and respondent's attorney, the Attorney
15 General of the State of California. The clerk also shall serve a copy of this order on
16 petitioner.

17 2. Respondent shall file with the court and serve on petitioner, within fifty-six
18 (56) days of the issuance of this order, an answer conforming in all respects to Rule 5 of
19 the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus
20 should not be granted. Respondent shall file with the answer and serve on petitioner a
21 copy of all portions of the state trial record that have been transcribed previously and that
22 are relevant to a determination of the issues presented by the petition.

23 If petitioner wishes to respond to the answer, he shall do so by filing a traverse
24 with the court and serving it on respondent within twenty-eight (28) days of his receipt of
25 the answer.

26 3. Respondent may file a motion to dismiss on procedural grounds in lieu of
27 an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules
28 Governing Section 2254 Cases. If respondent files such a motion, it is due fifty-six (56)

1 days from the date this order is entered. If a motion is filed, petitioner shall file with the
2 court and serve on respondent an opposition or statement of non-opposition within
3 twenty-eight (28) days of receipt of the motion, and respondent shall file with the court
4 and serve on petitioner a reply within fourteen (14) days of receipt of any opposition.

5 4. Petitioner is reminded that all communications with the court must be
6 served on respondent by mailing a true copy of the document to respondent's counsel.
7 Petitioner must keep the court informed of any change of address and must comply with
8 the court's orders in a timely fashion. Failure to do so may result in the dismissal of this
9 action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). See
10 *Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas
11 cases).

12 **IT IS SO ORDERED.**

13 Dated: 11/20/15



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16 PHYLLIS J. HAMILTON
United States District Judge

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